		HONORABLE RICHARD A. JONES
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9	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE	
10	AT SEA	TILE
11	DANA MCARTHUR, et al.,	CASE NO. 2:22-cv-01071-RAJ-TLF
12	Plaintiffs,	ORDER
13	V.	
14	HOLLAND AMERICA LINE INC., et al.,	
15	Defendants.	
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17	The Court, having reviewed de novo the Report and Recommendation of	
18	Magistrate Judge Theresa L. Fricke, Dkt. # 141, Defendants' objections to the Report and	
19	Recommendation, Dkt. # 142, Plaintiffs' response to the objections, Dkt. # 143, and the	
20	remaining record, hereby finds and ORDERS:	
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1 1. The Court **MODIFIES** the Report and Recommendation to the extent it 2 suggests it is improper to include in a reply brief a request to strike materials contained in the opposition brief. LCR 7(g) permits such requests. The Court ADOPTS the 3 remainder of the Report and Recommendation.¹ 4 Defendants' motion for summary judgment is **DENIED**; and 5 2. 6 3. Both parties' motion to strike expert evidence are **DENIED** without 7 prejudice. 8 Dated this 30th day of July, 2025. 9 Richard A frace 10 11 The Honorable Richard A. Jones 12 United States District Judge 13 14 15 16 17 18 19 20 ¹ As for Defendants' motion to strike, the Court reaches the same conclusion that the motion should be denied without prejudice, but does so for different reasons. The Court 21 need not rely on the challenged portion of Mr. Downey's opinion to find there is an issue of material fact as to whether an enhanced risk of seaplane accidents in the Ketchikan 22 area is open and obvious to the reasonable person. See Dkt. # 121-20 at 10, 14; Dkt. 107-23 1 at 139, 141, 180, 191; Dkt. # 121-59 at 2. Accordingly, the Court declines to rule on its admissibility at this time. See Monetti v. City of Seattle, 875 F. Supp. 2d 1221, 1233 24

fact as to duty and causation that preclude summary judgment.

(W.D. Wash. 2012). The Court has reviewed the remainder of Defendants' objections

but does not find they overcome Judge Fricke's findings that there are issues of material

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